

MONTANA LEGISLATIVE HISTORY

Chapter 582 19 99

Bill H _____ S 97

Original bill & history ☒ C

H. Committee on Natural Res.

Hearing Date(s) 3/8 _____ C

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Date Out _____ C

S. Committee on Local Gov't

Hearing Date(s) 1/12 _____ C

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Free Conf Comm - 4/12

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

3/17	Chapter Number Assigned Chapter Number 86 Effective Date: 3/16/1999 - All Sections		
SB 96	Introduced by Stang, et al.	LC0477 Drafter: Vandenbosch	
	Modify Provisions Governing Protest of Changes to Municipal Zoning Regulations;...		
	By Request of Environmental Quality Council		
12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Local Government		
1/12	Hearing		
1/21	Committee Executive Action--Bill Passed as Amended	8	3
1/21	Committee Report--Bill Passed as Amended		
1/22	2nd Reading Passed	37	12
1/23	3rd Reading Passed	39	7
	Transmitted to House		
2/16	Referred to Local Government		
3/03	Rereferred to Natural Resources		
3/08	Hearing		
3/11	Committee Executive Action--Bill Concurred as Amended	16	4
3/11	Committee Report--Bill Concurred as Amended		
3/27	2nd Reading Concurred	84	11
3/29	3rd Reading Concurred	79	21
	Returned to Senate with Amendments		
4/06	2nd Reading House Amendments Not Concurred	49	1
4/07	Free Conference Committee Appointed		
4/12	Hearing		
4/12	Free Conference Committee Report Received		
4/13	2nd Reading Free Conference Committee Report Adopted	49	0
4/14	3rd Reading Free Conference Committee Report Adopted	49	1
	House		
4/08	Free Conference Committee Appointed		
4/12	Free Conference Committee Report Received		
4/17	2nd Reading Free Conference Committee Report Adopted	82	15
4/19	3rd Reading Free Conference Committee Report Adopted	83	17
4/20	Sent to Enrolling		
4/21	Returned from Enrolling		
4/21	Signed by President		
4/21	Signed by Speaker		
4/22	Transmitted to Governor		
4/27	Signed by Governor		
4/29	Chapter Number Assigned Chapter Number 492 Effective Date: 10/01/1999 - All Sections		

SB 97 Introduced by Stang, et al. LC0475 Drafter: Vandenbosch

Generally Revise Laws Relating to Local Planning and Subdivision Review;...

By Request of Environmental Quality Council

12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Local Government		
1/12	Hearing		
1/21	Committee Executive Action--Bill Passed as Amended	11	0
1/21	Committee Report--Bill Passed as Amended		
1/22	2nd Reading Passed	50	0
1/23	3rd Reading Passed	46	0
	Transmitted to House		
2/16	Referred to Natural Resources		
3/08	Hearing		
3/11	Committee Executive Action--Bill Concurred	11	9
3/11	Committee Report--Bill Concurred		
3/27	2nd Reading Concurred as Amended	67	32
3/30	3rd Reading Concurred	75	25
	Returned to Senate with Amendments		
4/07	2nd Reading House Amendments Not Concurred	49	0
4/08	Free Conference Committee Appointed		
4/12	Hearing		
4/12	Free Conference Committee Report Received		
4/13	2nd Reading Free Conference Committee Report Adopted	47	2
4/14	3rd Reading Free Conference Committee Report Adopted	49	1
4/19	Free Conference Committee Dissolved		
4/19	Free Conference Committee Appointed		
4/19	Hearing		
4/19	Free Conference Committee Report No. 2 Received		
4/19	2nd Reading Free Conference Committee Report No. 2 Adopted	50	0
4/20	3rd Reading Free Conference Committee Report No. 2 Adopted	47	3
	House		
4/09	Free Conference Committee Appointed		
4/12	Free Conference Committee Report Received		
4/17	2nd Reading Free Conference Committee Report Adopt Motion Failed	48	49
4/19	Free Conference Committee Report No. 2 Received		
4/20	2nd Reading Free Conference Committee Report No. 2 Adopted	61	36
4/21	3rd Reading Free Conference Committee Report No. 2 Adopted	66	34
4/21	Sent to Enrolling		
4/26	Returned from Enrolling		
4/26	Signed by President		
4/29	Signed by Speaker		
4/30	Transmitted to Governor		
5/10	Signed by Governor		
5/10	Chapter Number Assigned Chapter Number 582 Effective Date: 10/01/1999 - All Sections		

SB 98 Introduced by Mesaros, et al. LC0414 Drafter: K. Williams

Allow Broader Leasing of Salvage Water Created Through Conservation Projects;...

SENATE BILL NO. 97

INTRODUCED BY STANG S, COCCHIARELLA V, GROSFIELD L

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LOCAL PLANNING AND SUBDIVISION REVIEW; CHANGING THE TERMS "MASTER PLAN", "COMPREHENSIVE PLAN", AND "COMPREHENSIVE DEVELOPMENT PLAN" AS USED IN TITLE 76 TO "GROWTH POLICY"; REQUIRING CERTAIN ELEMENTS AND AUTHORIZING ADDITIONAL ELEMENTS TO BE ADDRESSED IN GROWTH POLICIES; REQUIRING URBAN RENEWAL PLANS TO BE CONSISTENT WITH GROWTH POLICIES; MODIFYING PROVISIONS RELATING TO SUMMARY REVIEW OF SUBDIVISIONS; MODIFYING PROVISIONS RELATING TO REVIEW OF MINOR SUBDIVISIONS BY PLANNING BOARDS; MODIFYING PROVISIONS RELATING TO EXEMPTION FROM THE ENVIRONMENTAL ASSESSMENT REQUIREMENT FOR SUBDIVISIONS; AUTHORIZING GOVERNING BODIES TO ESTABLISH AN EXEMPTION FROM REVIEW OF CERTAIN CRITERIA FOR SUBDIVISIONS WHEN CERTAIN REQUIREMENTS ARE MET; AMENDING SECTIONS 7-2-4734, 7-15-4206, 7-15-4213, 76-1-103, 76-1-106, 76-1-107, 76-1-110, 76-1-601, 76-1-602, 76-1-603, 76-1-604, 76-1-605, 76-1-606, 76-2-201, 76-2-203, 76-2-206, 76-2-304, 76-2-310, 76-2-311, 76-3-210, 76-3-504, 76-3-505, 76-3-511, 76-3-601, 76-3-604, 76-3-605, 76-3-608, 76-3-621, 76-4-111, 76-4-122, 76-4-123, 76-4-124, 76-4-127, AND 76-9-104, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4734, MCA, is amended to read:

"7-2-4734. Standards to be met before annexation can occur. A municipal governing body may extend the municipal corporate limits to include any area ~~which~~ that meets the following standards:

(1) ~~It~~ The area must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun.

(2) No part of the area may be included within the boundary of another incorporated municipality.

(3) ~~It~~ The area must be included within and the proposed annexation must conform to a ~~comprehensive plan as prescribed in a growth policy adopted pursuant to~~ Title 76, chapter 1.

(4) No part of the area may be included within the boundary, as existing at the inception of ~~such~~ the attempted annexation, of any fire district organized under any of the provisions of part 21, chapter 33, if the fire district was originally organized at least 10 years prior to the inception of ~~such~~ attempted annexation. However, a single-ownership piece of land may be transferred from a fire district to a municipality by annexation as provided in 7-33-2127."

Section 2. Section 7-15-4206, MCA, is amended to read:

"7-15-4206. Definitions. The following terms, wherever used or referred to in ~~this part or part 43 or this part~~, shall have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" ~~shall mean~~ means a public agency created by 7-15-4232.

(2) "Blighted area" ~~shall mean~~ means an area ~~which that~~ is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability ~~and/or or~~ is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

(a) the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; ~~and/or or~~ age obsolescence of buildings or improvements, whether residential or nonresidential;

(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;

(c) inappropriate or mixed uses of land or buildings;

(d) high density of population and overcrowding;

(e) defective or inadequate street layout;

(f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(g) excessive land coverage;

(h) unsanitary or unsafe conditions;

(i) deterioration of site;

1 (j) diversity of ownership;

2 (k) tax or special assessment delinquency exceeding the fair value of the land;

3 (l) defective or unusual conditions of title;

4 (m) improper subdivision or obsolete platting;

5 (n) the existence of conditions ~~which~~ that endanger life or property by fire or other causes; or

6 (o) any combination of ~~such the~~ the factors listed in this subsection (2).

7 (3) "Bonds" ~~shall mean~~ means any bonds, notes, or debentures (including refunding obligations)
8 herein authorized to be issued pursuant to part 43 or this part.

9 (4) "Clerk" ~~shall mean~~ means the clerk or other official of the municipality who is the custodian
10 of the official records of ~~such the~~ the municipality.

11 (5) "Federal government" ~~shall include~~ means the United States of America or any agency or
12 instrumentality, corporate or otherwise, of the United States of America.

13 (6) "Local governing body" ~~shall mean~~ means the council or other legislative body charged with
14 governing the municipality.

15 (7) "Mayor" ~~shall mean~~ means the chief executive of a city or town.

16 (8) "Municipality" ~~shall mean~~ means any incorporated city or town in the state.

17 (9) "Neighborhood development program" means the yearly activities or undertakings of a
18 municipality in an urban renewal area or areas if the municipality ~~shall elect~~ elects to undertake activities
19 on an annual increment basis.

20 (10) "Obligee" ~~shall include~~ means any bondholder or agent or trustee for any bondholder or lessor
21 demising to the municipality property used in connection with an urban renewal project or any assignee
22 or assignees of ~~such the~~ the lessor's interest or any part ~~thereof~~ of the interest and the federal government
23 when it is a party to any contract with the municipality.

24 (11) "Person" ~~shall mean~~ means any individual, firm, partnership, corporation, company,
25 association, joint-stock association, or school district and ~~shall include~~ includes any trustee, receiver,
26 assignee, or other person acting in a similar representative capacity.

27 (12) "Public body" ~~shall mean~~ means the state or any municipality, township, board, commission,
28 district, or any other subdivision or public body of the state.

29 (13) "Public officer" ~~shall mean~~ means any officer who is in charge of any department or branch
30 of the government of the municipality relating to health, fire, building regulations, or to other activities

1 concerning dwellings in the municipality.

2 (14) "Real property" ~~shall include~~ means all lands, including improvements and fixtures ~~thereon~~
3 on the land, and all property of any nature appurtenant ~~thereto~~ to the land or used in connection ~~therewith~~
4 with the land, and every estate, interest, right, and use, legal or equitable, ~~therein~~ in the land, including
5 terms for years and liens by way of judgment, mortgage, or otherwise.

6 (15) "Redevelopment" may include:

7 (a) acquisition of a blighted area or portion ~~thereof~~ of the area;

8 (b) demolition and removal of buildings and improvements;

9 (c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
10 improvements necessary for carrying out in the area the urban renewal provisions of this part in
11 accordance with the urban renewal plan; and

12 (d) making the land available for development or redevelopment by private enterprise or public
13 agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in
14 accordance with the urban renewal plan.

15 (16) "Rehabilitation" may include the restoration and renewal of a blighted area or portion ~~thereof~~
16 of the area in accordance with an urban renewal plan by:

17 (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of
18 buildings or other improvements;

19 (b) acquisition of real property and demolition or removal of buildings and improvements ~~thereon~~
20 on the property ~~where~~ when necessary to eliminate unhealthful, unsanitary, or unsafe conditions; to
21 lessen density; to reduce traffic hazards; to eliminate obsolete or other uses detrimental to the public
22 welfare; to otherwise remove or prevent the spread of blight or deterioration; or to provide land for needed
23 public facilities;

24 (c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
25 improvements necessary for carrying out in the area the urban renewal provisions of this part; and

26 (d) the disposition of any property acquired in ~~such~~ the urban renewal area (including sale, initial
27 leasing, or retention by the municipality itself) at its fair value for uses in accordance with ~~such~~ the urban
28 renewal plan.

29 (17) "Urban renewal area" means a blighted area ~~which~~ that the local governing body designates
30 as appropriate for an urban renewal project or projects.

1 (18) "Urban renewal plan" means a plan, ~~as it exists from time to time,~~ for one or more urban
2 renewal areas or for an urban renewal project, ~~which.~~ The plan:

3 (a) ~~shall must~~ conform to the any comprehensive plan or ~~parts thereof for the municipality as a~~
4 ~~whole and the growth policy if one has been adopted pursuant to Title 76, chapter 1; and~~

5 (b) ~~shall must~~ be sufficiently complete to indicate, on a yearly basis or otherwise:

6 (i) ~~such~~ any land acquisition, demolition, and removal of structures; redevelopment;
7 improvements; and rehabilitation ~~as may be~~ that is proposed to be carried out in the urban renewal area;

8 (ii) zoning and planning changes, if any, including changes to the growth policy if one has been
9 adopted pursuant to Title 76, chapter 1;

10 (iii) land uses, maximum densities, building requirements; and

11 (iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved
12 traffic, public transportation, public utilities, recreational and community facilities, and other public
13 improvements.

14 (19) "Urban renewal project" may include undertakings or activities of a municipality in an urban
15 renewal area for the elimination and for the prevention of the development or spread of blight and may
16 involve redevelopment in an urban renewal area, rehabilitation or conservation in an urban renewal area,
17 or any combination or part ~~thereof~~ of redevelopment, rehabilitation, or conservation in accordance with
18 an urban renewal plan."

19
20 Section 3. Section 7-15-4213, MCA, is amended to read:

21 "7-15-4213. Review of urban renewal plan by planning commission. (1) Prior to its approval of
22 an urban renewal project, the local governing body shall submit the urban renewal project plan to the
23 planning commission of the municipality for review and recommendations as to its conformity with the
24 comprehensive plan or parts ~~thereof~~ of the plan for the development of the municipality as a whole and
25 with the growth policy if a growth policy has been adopted pursuant to Title 76, chapter 1.

26 (2) The planning commission shall submit its written recommendations with respect to the
27 proposed urban renewal plan to the local governing body within 60 days after receipt of it the plan."

28
29 Section 4. Section 76-1-103, MCA, is amended to read:

30 "76-1-103. Definitions. As used in this chapter, the following definitions apply:

(1) "City" includes incorporated cities and towns.

(2) "City council" means the chief legislative body of a city or incorporated town.

(3) "Governing body" or "governing bodies" means the governing body of any governmental unit represented on a planning board.

(4) ~~"Master plan"~~ "Growth policy" means ~~a and is synonymous with, a comprehensive development plan, master plan, or comprehensive plan or any of its parts such as a plan of land use and zoning, of thoroughfares, of sanitation, of recreation, and of other related matters that meets the requirements of 76-1-601.~~

(5) "Mayor" means mayor of a city.

(6) "Neighborhood plan" means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one or more of the elements of the growth policy in more detail.

~~(6)(7)~~ (7) "Person" means any individual, firm, or corporation.

~~(7)(8)~~ (8) "Planning board" means a city planning board, a county planning board, or a joint city-county planning board.

~~(8)(9)~~ (9) "Plat" means a subdivision of land into lots, streets, and areas, marked ~~upon the earth and represented on paper on a map or plan,~~ and includes replats or amended plats.

~~(9)(10)~~ (10) "Public place" means any tract owned by the state or its subdivisions.

~~(10)(11)~~ (11) "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, and all public ways.

~~(11)(12)~~ (12) "Units of government" means any federal, state, or regional unit of government or any county, city, or town.

~~(12)(13)~~ (13) "Utility" means any facility used in rendering service ~~which that~~ the public has a right to demand."

Section 5. Section 76-1-106, MCA, is amended to read:

"76-1-106. Role of the planning board. (1) To ~~assure~~ ensure the promotion of public health, safety, morals, convenience, or order, or the general welfare and for the sake of efficiency and economy in the process of community development, the planning board shall prepare a ~~master plan~~ growth policy and shall serve in an advisory capacity to the local governing bodies establishing the planning board.

(2) The planning board may also propose policies for:

(a) subdivision plats;

(b) the development of public ways, public places, public structures, and public and private utilities;

(c) the issuance of improvement location permits on platted and unplatted lands; or

(d) the laying out and development of public ways and services to platted and unplatted lands."

Section 6. Section 76-1-107, MCA, is amended to read:

"76-1-107. Role of planning board in relation to subdivisions and plats. (1) ~~The~~ Except as provided in subsection (2), the governing body of any city, town, or county ~~which that~~ has formed a planning board and adopted a ~~comprehensive plan~~ growth policy pursuant to this chapter and subdivision regulations pursuant to ~~this chapter and~~ chapter 3 shall seek the advice of the appropriate planning board in all matters pertaining to the approval or disapproval of plats or subdivisions.

(2) The planning board may delegate to its staff its responsibility under subsection (1) to advise the governing body on any or all proposed minor subdivisions."

Section 7. Section 76-1-110, MCA, is amended to read:

"76-1-110. Cooperation with planning board by state and local governments. Whenever the board undertakes the preparation of a ~~master plan~~ growth policy, the departments and officials of state, city, county, and separate taxing units operating within lands under the jurisdiction of the board shall make available, upon the request of the board, ~~such~~ information, documents, and plans ~~as that~~ as that have been prepared or, upon the request of the board, shall provide ~~such~~ any information ~~as that~~ as that relates to the board's activity."

Section 8. Section 76-1-601, MCA, is amended to read:

"76-1-601. ~~Master plan~~ Growth policy -- contents. (1) The planning board shall prepare and propose a ~~master plan~~ growth policy for the entire jurisdictional area. The plan may propose ordinances or resolutions for possible adoption by the appropriate governing body. ~~The plan may~~

(2) A growth policy must include:

~~(1) careful and comprehensive surveys and studies of existing conditions and the probable future growth of the city and its environs or of the county;~~

~~(2) maps, plats, charts, and descriptive material presenting basic information, locations, extent,~~

1 ~~and character of any of the following:~~

2 ~~—— (a) history, population, and physical site conditions;~~

3 ~~—— (b) land use, including the height, area, bulk, location, and use of private and public structures~~
4 ~~and premises;~~

5 ~~—— (c) population densities;~~

6 ~~—— (d) community centers and neighborhood units;~~

7 ~~—— (e) blighted and slum areas;~~

8 ~~—— (f) streets and highways, including bridges, viaducts, subways, parkways, alleys, and other public~~
9 ~~ways and places;~~

10 ~~—— (g) sewers, sanitation, and drainage, including handling, treatment, and disposal of excess~~
11 ~~drainage waters, sewage, garbage, refuse, and other wastes;~~

12 ~~—— (h) flood control and prevention;~~

13 ~~—— (i) public and private utilities, including water, light, heat, communication, and other services;~~

14 ~~—— (j) transportation, including rail, bus, truck, air, and water transport and their terminal facilities;~~

15 ~~—— (k) local mass transit, including motor and trolley bus; street, elevated, or underground railways;~~
16 ~~and taxicabs;~~

17 ~~—— (l) parks and recreation, including parks, playgrounds, reservations, forests, wildlife refuges, and~~
18 ~~other public grounds, spaces, and facilities of a recreational nature;~~

19 ~~—— (m) public buildings and institutions, including governmental administration and service buildings,~~
20 ~~hospitals, infirmaries, clinics, penal and correctional institutions, and other civic and social service~~
21 ~~buildings;~~

22 ~~—— (n) education, including location and extent of schools, colleges, and universities;~~

23 ~~—— (o) land utilization, including areas for manufacturing and industrial uses, concentration of~~
24 ~~wholesale business, retail business, and other commercial uses, residential uses, and areas for mixed~~
25 ~~uses;~~

26 ~~—— (p) conservation of water, soil, agricultural, and mineral resources;~~

27 ~~—— (q) any other factors which are a part of the physical, economic, or social situation within the city~~
28 ~~or county;~~

29 ~~—— (3) reports, maps, charts, and recommendations setting forth plans for the development,~~
30 ~~redevelopment, improvement, extension, and revision of the subjects and physical situations of the city~~

or county set out in subsection (2) so as to substantially accomplish the object of this chapter as set out in 76-1-101 and 76-1-102;

~~—— (4) a long-range development program of public works projects, based on the recommended plans of the planning board, for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects and with a view to stabilizing industry and employment and the keeping of such program up-to-date for all separate taxing units within the city or county, respectively, for the purpose of assuring efficient and economic use of public funds;~~

~~—— (5) recommendations setting forth the development, improvement, and extension of areas, if any, to be set aside for use as trailer courts and sites for mobile homes.~~

(a) community goals and objectives;

(b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:

(i) land uses;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) public facilities;

(vii) natural resources; and

(viii) other characteristics and features proposed by the planning board and adopted by the governing bodies;

(c) projected trends for the life of the growth policy for each of the following elements:

(i) land use;

(ii) population;

(iii) housing needs;

(iv) economic conditions;

(v) local services;

(vi) natural resources; and

(vii) other elements proposed by the planning board and adopted by the governing bodies;

(d) a description of policies, regulations, and other measures to be implemented in order to

1 achieve the goals and objectives established pursuant to subsection (2)(a);

2 (e) a strategy for development, maintenance, and replacement of public infrastructure, including
3 drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire
4 protection facilities, roads, and bridges;

5 (f) an implementation strategy that includes:

6 (i) a timetable for implementing the growth policy;

7 (ii) a list of conditions that will lead to a revision of the growth policy; and

8 (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy

9 if necessary;

10 (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions
11 that explains:

12 (i) if a governing body is a city or town, how the governing body will coordinate and cooperate
13 with the county in which the city or town is located on matters related to the growth policy;

14 (ii) if a governing body is a county, how the governing body will coordinate and cooperate with
15 cities and towns located within the county's boundaries on matters related to the growth policy;

16 (h) a statement explaining how the governing bodies will:

17 (i) define the criteria in 76-3-608(3)(a); and

18 (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in
19 76-3-608(3)(a); and

20 (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted.

21 (3) A growth policy may:

22 (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the
23 growth policy.

24 (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

25 (c) address the criteria in 76-3-608(3)(a);

26 (d) evaluate the effect of subdivision on the criteria in 76-3-608(3)(a);

27 (e) describe zoning regulations that will be implemented to address the criteria in 76-3-608(3)(a);

28 and

29 (f) identify geographic areas where the governing body intends to authorize an exemption from
30 review of the criteria in 76-3-608(3)(a) for proposed subdivisions pursuant to 76-3-608.

1 (4) The planning board may propose and the governing bodies may adopt additional elements of
2 a growth policy in order to fulfill the purpose of this chapter."

3
4 Section 9. Section 76-1-602, MCA, is amended to read:

5 "76-1-602. Public hearing on proposed ~~master-plan~~ growth policy. (1) Prior to the submission of
6 the proposed ~~master-plan~~ growth policy to the governing bodies, the board shall give notice and hold a
7 public hearing on the ~~plan~~ growth policy.

8 (2) At least 10 days prior to the date set for hearing, the board shall publish in a newspaper of
9 general circulation in the jurisdictional area a notice of the time and place of the hearing."

10
11 Section 10. Section 76-1-603, MCA, is amended to read:

12 "76-1-603. Adoption of ~~master-plan~~ growth policy by planning board. After consideration of the
13 recommendations and suggestions elicited at the public hearing, the planning board shall by resolution
14 recommend the proposed ~~master-plan~~ growth policy and any proposed ordinances and resolutions for its
15 implementation to the governing bodies of the governmental units represented on the board."

16
17 Section 11. Section 76-1-604, MCA, is amended to read:

18 "76-1-604. Adoption, revision, or rejection of ~~master-plan~~ growth policy. (1) The governing bodies
19 shall adopt a resolution of intention to adopt, revise, or reject the proposed ~~plan~~ growth policy or any of
20 its parts.

21 (2) If the governing bodies adopt a resolution of intention to adopt the proposed ~~plan~~ growth
22 policy or any of its parts, they may, in their discretion, submit to the qualified electors of the jurisdictional
23 area ~~included within~~ covered by the proposed ~~plan~~ growth policy at the next primary or general election
24 or at a special election the referendum question of whether or not the ~~plan~~ growth policy should be
25 adopted. A special election must be held in conjunction with a regular or primary election. Except as
26 provided in this section, the provisions of Title 7, chapter 5, part 1, apply to the referendum election.

27 (3) The governing bodies may adopt, revise, or repeal a ~~master-plan~~ growth policy under this
28 section.

29 (4) The qualified electors of the jurisdictional area ~~included within the master-plan~~ growth policy
30 may by initiative or referendum, as provided in 7-5-131 through 7-5-137, adopt, revise, or repeal a ~~master~~

1 ~~plan growth policy~~ under this section."

2
3 Section 12. Section 76-1-605, MCA, is amended to read:

4 "76-1-605. Use of adopted master-plan growth policy. After adoption of the master-plan growth
5 policy, the city council, the board of county commissioners, or other governing body within the territorial
6 jurisdiction of the board ~~shall~~ must be guided by and give consideration to the general policy and pattern
7 of development set out in the master-plan growth policy in the:

8 (1) authorization, construction, alteration, or abandonment of public ways, public places, public
9 structures, or public utilities;

10 (2) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or
11 utilities;

12 (3) adoption of subdivision controls; and

13 (4) adoption of zoning ordinances or resolutions."

14
15 Section 13. Section 76-1-606, MCA, is amended to read:

16 "76-1-606. Effect of master-plan growth policy on subdivisions and plats. (1) ~~Where~~ When a
17 master-plan growth policy has been approved, the city council may by ordinance or the board of county
18 commissioners may by resolution require subdivision plats to conform to the provisions of the master-plan
19 growth policy. Certified copies of ~~such the~~ ordinance ~~shall~~ must be filed with the city or town clerk and
20 with the county clerk and recorder of the county.

21 (2) ~~Thereafter:~~

22 ~~(a) When the city council has adopted an ordinance pursuant to subsection (1),~~ a plat involving
23 lands within the corporate limits of the city and covered by ~~said master-plan the growth policy shall may~~
24 not be filed without first presenting it to the planning board, which shall make a report to the city council
25 advising as to compliance or noncompliance of the plat with the master-plan growth policy. The city
26 council ~~shall have~~ has the final authority to approve the filing of ~~such a~~ plat within the city limits.

27 ~~(b)(3) When the board of county commissioners has adopted a resolution pursuant to subsection~~
28 (1), a plat involving lands outside the corporate limits of the city and covered by ~~said master-plan a~~
29 growth policy shall may not be filed without first presenting it to the planning board, which shall make
30 a report to the board of county commissioners advising as to compliance or noncompliance of the plat

1 with the ~~master plan growth policy~~. The board of county commissioners ~~shall have~~ has the final authority
2 to approve the filing of ~~such~~ the plat.

3 (4) The planning board may delegate to its staff its responsibility to report to the city council or
4 the board of county commissioners under subsection (2) or (3).

5 ~~(3) Nothing herein contained shall~~

6 (5) This section may not be interpreted to limit the present powers of the city or county
7 governments.

8 (6) The requirements of this section must be met ~~but shall be an additional requirement~~ before any
9 plat may be filed of record or entitled to be recorded."

10
11 Section 14. Section 76-2-201, MCA, is amended to read:

12 "76-2-201. County zoning authorized. For the purpose of promoting the public health, safety,
13 morals, and general welfare ~~of the people in cities and towns and counties whose governing bodies have~~
14 ~~adopted a comprehensive development plan for jurisdictional areas pursuant to chapter 1, the boards a~~
15 board of county commissioners ~~in such counties that has adopted a growth policy for the entire~~
16 jurisdictional area pursuant to chapter 1 ~~are~~ is authorized to adopt zoning regulations for all or parts of
17 ~~such the jurisdictional areas area~~ in accordance with the provisions of this part."

18
19 Section 15. Section 76-2-203, MCA, is amended to read:

20 "76-2-203. Criteria and guidelines for zoning regulations. (1) The zoning Zoning regulations shall
21 must be made in accordance with ~~a comprehensive development plan~~ the growth policy and shall must
22 be designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to
23 promote public health and general welfare; to provide adequate light and air; to prevent the overcrowding
24 of land; to avoid undue concentration of population; and to facilitate the adequate provision of
25 transportation, water, sewerage, schools, parks, and other public requirements.

26 (2) Such zoning Zoning regulations shall must be made with reasonable consideration, among
27 other things, to the character of the district and its peculiar suitability for particular uses and with a view
28 to conserving the value of buildings and encouraging the most appropriate use of land throughout ~~such~~
29 the jurisdictional area.

30 (3) The zoning Zoning regulations shall must, as nearly as possible, be made compatible with the

1 zoning ordinances of the municipality within the jurisdictional area."

2
3 Section 16. Section 76-2-206, MCA, is amended to read:

4 "76-2-206. Interim zoning map or regulation. (1) ~~if a~~ The board of county commissioners may
5 adopt an interim zoning map or regulation as an emergency measure in order to promote the public health,
6 safety, morals, and general welfare if:

7 (a) the purpose of the interim zoning map or regulation is to classify and regulate those uses and
8 related matters that constitute the emergency; and

9 (b) the county is:

10 (i) is conducting or in good faith intends to conduct studies within a reasonable time; or

11 (ii) has held or is holding a hearing for the purpose of considering any of the following:

12 (A) a master plan growth policy; or

13 (B) zoning regulations; or

14 (C) an amendment, extension, or addition to either a growth policy or to zoning regulations
15 pursuant to this part, the board of county commissioners in order to promote the public health, safety,
16 morals, and general welfare may adopt as an emergency measure a temporary interim zoning map or
17 temporary interim zoning regulation, the purpose of which shall be to classify and regulate uses and
18 related matters as constitutes the emergency.

19 (2) ~~Such An~~ interim resolution shall must be limited to 1 year from the date it becomes effective.
20 The board of county commissioners may extend ~~such the~~ interim resolution for 1 year, but not more than
21 one ~~such~~ extension may be made."

22
23 Section 17. Section 76-2-304, MCA, is amended to read:

24 "76-2-304. Purposes of zoning. (1) ~~Such~~ Zoning regulations ~~shall~~ must be made in accordance
25 with a ~~comprehensive plan~~ growth policy and designed to lessen congestion in the streets; to secure
26 safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate
27 light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to
28 facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public
29 requirements.

30 (2) ~~Such~~ Zoning regulations ~~shall~~ must be made with reasonable consideration, among other

things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout ~~such the~~ municipality."

Section 18. Section 76-2-310, MCA, is amended to read:

"76-2-310. Extension of municipal zoning and subdivision regulations beyond municipal boundaries. (1) ~~The local~~ Except as provided in 76-2-312 and except in locations where a county has adopted zoning or subdivision regulations, a city or town council or other legislative body which that has adopted a master plan growth policy pursuant to chapter 1 may extend the application of its zoning or subdivision regulations, ~~or both,~~ beyond its limits in any direction ~~but not in a county which has adopted such regulations within the contemplated area.~~ subject to the following limits:

~~(2) (a) A up to 3 miles beyond the limits of a city of the first class as defined in 7-1-4111; may not extend the application of its zoning or subdivision regulations, or both, more than 3 miles beyond its limits,~~

~~(b) up to 2 miles beyond the limits of a city of the second class may not so extend more than 2 miles beyond its limits; and~~

~~(c) up to 1 mile beyond the limits of a city or town of the third class may not so extend more than 1 mile beyond its limits.~~

~~(b)(2) Where~~ When two or more noncontiguous cities have boundaries so near to one another as to create an area of potential conflict in the event that all cities concerned should exercise the full powers conferred by ~~this section, 76-2-302, and 76-2-311, and this section,~~ then the extension of zoning or subdivision regulations, or both, by these cities ~~shall~~ must terminate at a boundary line agreed upon by the cities ~~so concerned.~~"

Section 19. Section 76-2-311, MCA, is amended to read:

"76-2-311. Administration of regulations in extended area. (1) ~~Any~~ A city or town council or other legislative body may ~~thereafter enforce such regulations adopted pursuant to 76-2-310 in the area to the same extent,~~ as if ~~such the~~ the property were situated within its corporate limits, until the county board adopts a master plan growth policy pursuant to chapter 1 and accompanying zoning or subdivision resolutions, ~~or both, which that~~ include the area.

(2) As a prerequisite to the exercise of this power, a city-county planning board whose jurisdictional area includes the area to be regulated must be formed or an existing city planning board must be increased to include two representatives from the unincorporated area ~~which~~ that is to be affected. These representatives ~~shall~~ must be appointed by the board of county commissioners. ~~Such representation, however, shall~~ Representation must cease when the county board adopts a ~~master plan growth policy~~ pursuant to chapter 1 and accompanying zoning or subdivision resolutions, ~~or both, which~~ that include the area."

Section 20. Section 76-3-210, MCA, is amended to read:

"76-3-210. Subdivisions exempted from requirement of an environmental assessment. (1) Subdivisions totally within a ~~master planning area~~ jurisdictional area that has adopted all of the following are considered to be in the public interest and are exempt from the requirement of an environmental assessment:

(a) a growth policy adopted pursuant to chapter 1 ~~wherein;~~
(b) zoning regulations pursuant to ~~part 3 of chapter 2 or~~ 76-2-201 or chapter 2, part 3; and
(c) ~~a long range development program of~~ strategy for development, maintenance, and replacement of public works projects infrastructure pursuant to 76-1-601 ~~have been adopted are deemed to be in the public interest and exempt from the requirement of an environmental assessment.~~

(2) (a) ~~When a~~ A planning board established pursuant to chapter 1 may exempt a proposed subdivision within its jurisdictional area from the requirement for completion of any portion of the environmental assessment if:

(i) the subdivision is proposed in an area for which a master plan growth policy has been adopted pursuant to chapter 1 and the proposed subdivision will be in compliance with the plan growth policy; or
(ii) ~~when the subdivision will contain fewer than 10 parcels and less than 20 acres, a planning board established pursuant to chapter 1 and having jurisdiction over the area involved may exempt the subdivider from the completion of all or any portion of the environmental assessment.~~

(b) ~~When such an exemption is granted under this subsection (2),~~ the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement ~~shall~~ must accompany the preliminary plat of the subdivision when it is submitted for review.

(c) ~~Where no~~ a properly established planning board having jurisdiction exists ~~does not exist,~~ the

governing body may grant exemptions as specified in this subsection (2)."

Section 21. Section 76-3-504, MCA, is amended to read:

"76-3-504. Minimum requirements for subdivision regulations. The subdivision regulations adopted under this chapter ~~shall~~ must, at a minimum:

(1) except as provided in 76-3-210 or 76-3-609(3), require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(2) establish procedures consistent with this chapter for the submission and review of subdivision plats;

(3) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(4) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development and prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques;

(5) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(6) prescribe standards for:

(a) the design and arrangement of lots, streets, and roads;

(b) grading and drainage;

(c) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that, at a minimum, meet the regulations adopted by the department of environmental quality under 76-4-104;

(d) the location and installation of utilities;

(7) provide procedures for the administration of the park and open-space requirements of this chapter;

(8) provide for the review of preliminary plats by affected public utilities and those agencies of local, state, and federal government having a substantial interest in a proposed subdivision. A utility or agency review may not delay the governing body's action on the plat beyond the time limits specified in this chapter, and the failure of any agency to complete a review of a plat may not be a basis for rejection of the plat by the governing body."

Section 22. Section 76-3-505, MCA, is amended to read:

"76-3-505. Provision for summary expedited review of subdivisions. (1) Local subdivision regulations must include procedures for the summary expedited review and approval of subdivision plats proposed subdivisions containing five or fewer parcels ~~when proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plats have been approved by the department of environmental quality whenever approval is required by part 1 of chapter 4; however, reasonable local regulations may contain additional requirements for summary approval that are located entirely within the jurisdictional area covered by:~~

(a) a growth policy adopted pursuant to chapter 1; and

(b) zoning regulations adopted pursuant to chapter 2, part 2 or 3.

(2) Except when required by local subdivision regulations, the following requirements do not apply to subdivisions eligible for expedited review under this section:

(a) the requirement to hold a hearing on the preliminary plat pursuant to 76-3-605; and

(b) review by the governing body of the criteria in 76-3-608(3)(a).

(3) The governing body shall approve, conditionally approve, or disapprove a proposed subdivision that is eligible for expedited review within 35 days of submission of the subdivision application."

Section 23. Section 76-3-511, MCA, is amended to read:

"76-3-511. Local regulations no more stringent than state regulations or guidelines. (1) Except as provided in 76-3-505 or subsections (2) through (4) of this section or unless required by state law, a governing body may not adopt a rule under 76-3-501 or 76-3-504(6)(c) that is more stringent than the comparable state regulations or guidelines that address the same circumstances. The governing body may incorporate by reference comparable state regulations or guidelines.

(2) The governing body may adopt a rule to implement 76-3-501 or 76-3-504(6)(c) that is more stringent than comparable state regulations or guidelines only if the governing body makes a written finding, after a public hearing and public comment and based on evidence in the record, that:

(a) the proposed local standard or requirement protects public health or the environment; and

(b) the local standard or requirement to be imposed can mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference information and peer-reviewed scientific studies contained in the record that forms the basis for the governing body's conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(4) (a) A person may petition the governing body to review a rule adopted by the governing body if:

(i) the person is affected by a rule of the governing body adopted after January 1, 1990, and before April 14, 1995; and

(ii) that that person believes to be the rule is more stringent than comparable state regulations or guidelines may petition the governing body to review the rule.

(b) If the governing body determines that the rule is more stringent than comparable state regulations or guidelines, the governing body shall: comply with this section by either revising

(i) revise the rule to conform to the state regulations or guidelines; or

(ii) by making the make a written finding, as provided under subsection subsections (2) and (3), within a reasonable period of time, not to exceed 12 months after receiving the petition.

(c) A petition under this section does not relieve the petitioner of the duty to comply with the challenged rule.

(d) The governing body may charge a petition filing fee in an amount not to exceed \$250.

~~(b)~~ (5) A person may also petition the governing body for a rule review under subsection (4) ~~(a)~~ if the governing body adopts a rule after January 1, 1990, in an area in which no state regulations or guidelines existed and the state government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted governing body rule."

Section 24. Section 76-3-601, MCA, is amended to read:

"76-3-601. Submission of preliminary plat for review. (1) Except when a plat is eligible for summary approval expedited review pursuant to 76-3-505, the subdivider shall present to the governing body or to the agent or agency designated by the governing body the preliminary plat of the proposed subdivision for local review. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements.

(2) (a) When the proposed subdivision lies within the boundaries of an incorporated city or town,

1 the preliminary plat must be submitted to and approved by the city or town governing body.

2 (b) When the proposed subdivision is situated entirely in an unincorporated area, the preliminary
3 plat must be submitted to and approved by the governing body of the county. However, if the proposed
4 subdivision lies within 1 mile of a third-class city or town, or within 2 miles of a second-class city, or
5 within 3 miles of a first-class city, the county governing body shall submit the preliminary plat to the city
6 or town governing body or its designated agent for review and comment. If the proposed subdivision is
7 situated within a rural school district, as described in 20-9-615, the county governing body shall provide
8 an informational copy of the preliminary plat to school district trustees.

9 (c) If the proposed subdivision lies partly within an incorporated city or town, the proposed plat
10 must be submitted to and approved by both the city or town and the county governing bodies.

11 (d) When a proposed subdivision is also proposed to be annexed to a municipality, the governing
12 body of the municipality shall coordinate the subdivision review and annexation procedures to minimize
13 duplication of hearings, reports, and other requirements whenever possible.

14 (3) The provisions of 76-3-604, 76-3-605, and 76-3-608 through 76-3-610, and this section do
15 not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits
16 pursuant to 7-3-4444."

17
18 Section 25. Section 76-3-604, MCA, is amended to read:

19 "76-3-604. Review of preliminary plat. (1) The governing body or its designated agent or agency
20 shall review the preliminary plat to determine whether it conforms to the local ~~master plan~~ growth policy
21 if one has been adopted pursuant to chapter 1, to the provisions of this chapter, and to rules prescribed
22 or adopted pursuant to this chapter.

23 (2) The governing body shall approve, conditionally approve, or ~~reject~~ disapprove the preliminary
24 plat within 60 days of its presentation unless the subdivider consents to an extension of the review
25 period.

26 (3) If the governing body ~~rejects~~ disapproves or conditionally approves the preliminary plat, it shall
27 forward one copy of the plat to the subdivider accompanied by a letter over the appropriate signature
28 stating the reason for ~~rejection~~ disapproval or enumerating the conditions ~~which that~~ which must be met to
29 ~~assure~~ ensure approval of the final plat."

1 **Section 26.** Section 76-3-605, MCA, is amended to read:

2 **"76-3-605. Hearing on preliminary plat.** (1) ~~The~~ Except as provided in 76-3-505, the governing
3 body or its authorized agent or agency shall hold a public hearing on the preliminary plat and shall consider
4 all relevant evidence relating to the public health, safety, and welfare, including the environmental
5 assessment if required, to determine whether the plat should be approved, conditionally approved, or
6 disapproved by the governing body.

7 (2) When a proposed subdivision is also proposed to be annexed to a municipality, the governing
8 body of the municipality shall hold joint hearings on the preliminary plat and annexation whenever
9 possible.

10 (3) Notice of ~~such~~ the hearing ~~shall~~ must be given by publication in a newspaper of general
11 circulation in the county not less than 15 days prior to the date of the hearing. The subdivider, each
12 property owner of record, and each purchaser under contract for deed of property immediately adjoining
13 the land included in the plat ~~shall~~ must also be notified of the hearing by registered or certified mail not
14 less than 15 days prior to the date of the hearing.

15 (4) When a hearing is held by an agent or agency designated by the governing body, the agent
16 or agency shall act in an advisory capacity and recommend to the governing body the approval,
17 conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing
18 body in writing not later than 10 days after the public hearing."

19
20 **Section 27.** Section 76-3-608, MCA, is amended to read:

21 **"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision
22 to approve, conditionally approve, or disapprove a subdivision is whether the preliminary plat, applicable
23 environmental assessment, public hearing, planning board recommendations, or additional information
24 demonstrates that development of the subdivision meets the requirements of this chapter. A governing
25 body may not deny approval of a subdivision based solely on the subdivision's impacts on educational
26 services.

27 (2) The governing body shall issue written findings of fact that weigh the criteria in subsection
28 (3), as applicable.

29 (3) A subdivision proposal must undergo review for the following primary criteria:

30 (a) except when the governing body has established an exemption pursuant to subsection (7) or

1 except as provided in 76-3-505, the effect on agriculture, agricultural water user facilities, local services,
2 the natural environment, wildlife and wildlife habitat, and public health and safety;

3 (b) compliance with:

4 (i) the survey requirements provided for in part 4 of this chapter;

5 (ii) the local subdivision regulations provided for in part 5 of this chapter; and

6 (iii) the local subdivision review procedure provided for in this part;

7 (c) the provision of easements for the location and installation of any planned utilities; and

8 (d) the provision of legal and physical access to each parcel within the subdivision and the
9 required notation of that access on the applicable plat and any instrument of transfer concerning the
10 parcel.

11 (4) The governing body may require the subdivider to design the subdivision to reasonably
12 minimize potentially significant adverse impacts identified through the review required under subsection
13 (3). The governing body shall issue written findings to justify the reasonable mitigation required under this
14 subsection (4).

15 (5) (a) In reviewing a subdivision under subsection (3) and when requiring mitigation under
16 subsection (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but
17 it is recognized that in some instances the unmitigated impacts of a proposed development may be
18 unacceptable and will preclude approval of the plat.

19 (b) When requiring mitigation under subsection (4), a governing body shall consult with the
20 subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

21 (6) (a) When a minor subdivision is proposed in an area where a master-plan growth policy has
22 been adopted pursuant to chapter 1 and the proposed subdivision will comply with the plan growth policy,
23 the subdivision is exempt from the review criteria contained in subsection (3)(a) but is subject to
24 applicable zoning regulations.

25 (b) In order for a master-plan growth policy to serve as the basis for the exemption provided by
26 this subsection (6), the plan growth policy must, ~~at a minimum, contain:~~

27 ~~—— (i) housing, transportation, and land-use elements sufficient for the governing body to protect~~
28 ~~public health, safety, and welfare; and~~

29 ~~—— (ii) a discussion of physical constraints on development that exist within the area encompassed~~
30 ~~by the proposed subdivision~~ meet the requirements of 76-1-601.

1 (7) The governing body may exempt subdivisions that are entirely within the boundaries of
2 designated geographic areas from the review criteria in subsection (3)(a) if all of the following
3 requirements have been met:

4 (a) the governing body has adopted a growth policy pursuant to chapter 1 that:

5 (i) addresses the criteria in subsection (3)(a);

6 (ii) evaluates the effect of subdivision on the criteria in subsection (3)(a);

7 (iii) describes zoning regulations that will be implemented to address the criteria in subsection
8 (3)(a); and

9 (iv) identifies one or more geographic areas where the governing body intends to authorize an
10 exemption from review of the criteria in subsection (3)(a); and

11 (b) the governing body has adopted zoning regulations pursuant to chapter 2, part 2 or 3, that:

12 (i) apply to the entire area subject to the exemption; and

13 (ii) address the criteria in subsection (3)(a), as described in the growth policy."

14
15 Section 28. Section 76-3-621, MCA, is amended to read:

16 "76-3-621. Park dedication requirement. (1) Except as provided in subsections (2), (3), and (6),
17 a subdivider shall dedicate to the governing body a cash or land donation equal to:

18 (a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

19 (b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre
20 and not larger than 1 acre;

21 (c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not
22 larger than 3 acres; and

23 (d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and
24 not larger than 5 acres.

25 (2) When a subdivision is located totally within an area for which density requirements have been
26 adopted pursuant to a master plan growth policy under ~~Title 76~~, chapter 1; or pursuant to zoning
27 regulations under ~~Title 76~~, chapter 2, the governing body may establish park dedication requirements
28 based on the community need for parks and the development densities identified in the plans growth
29 policy or regulations. Park dedication requirements established under this subsection are in lieu of those
30 provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

1 (3) A park dedication may not be required for:

2 (a) a minor subdivision;

3 (b) land proposed for subdivision into parcels larger than 5 acres;

4 (c) subdivision into parcels that are all nonresidential;

5 (d) a subdivision in which parcels are not created, except when that subdivision provides
6 permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or

7 (e) a subdivision in which only one additional parcel is created.

8 (4) The governing body, in consultation with the subdivider and the planning board or park board
9 that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight
10 and consideration to the expressed preference of the subdivider, may determine whether the park
11 dedication must be a land donation, cash donation, or a combination of both. When a combination of land
12 donation and cash donation is required, the cash donation may not exceed the proportional amount not
13 covered by the land donation.

14 (5) (a) In accordance with the provisions of subsections (5)(b) and (5)(c), the governing body shall
15 use the dedicated money or land for development, acquisition, or maintenance of parks to serve the
16 subdivision.

17 (b) The governing body may use the dedicated money to acquire, develop, or maintain, within its
18 jurisdiction, parks or recreational areas or for the purchase of public open space or conservation
19 easements only if:

20 (i) the park, recreational area, open space, or conservation easement is within a reasonably close
21 proximity to the proposed subdivision; and

22 (ii) the governing body has formally adopted a park plan that establishes the needs and procedures
23 for use of the money.

24 (c) The governing body may not use more than 50% of the dedicated money for park
25 maintenance.

26 (6) The local governing body shall waive the park dedication requirement if:

27 (a) (i) the preliminary plat provides for a planned unit development or other development with land
28 permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will
29 ultimately reside in the development; and

30 (ii) the area of the land and any improvements set aside for park and recreational purposes equals

1 or exceeds the area of the dedication required under subsection (1);

2 (b) (i) the preliminary plat provides long-term protection of critical wildlife habitat; cultural,
3 historical, or natural resources; agricultural interests; or aesthetic values; and

4 (ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection
5 provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the
6 dedication required under subsection (1); or

7 (c) the area of the land proposed to be subdivided, by virtue of a combination of the provisions
8 of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication
9 required under subsection (1).

10 (7) For the purposes of this section:

11 (a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and

12 (b) "dwelling unit" means a residential structure in which a person or persons reside."

13
14 **Section 29. Section 76-4-111, MCA, is amended to read:**

15 **"76-4-111. Exemption for certain condominiums and subdivisions. (1) Condominiums constructed**
16 **on land divided in compliance with the Montana Subdivision and Platting Act and this part are exempt**
17 **from provisions of this part.**

18 (2) Whenever a parcel of land has previously been reviewed under either department requirements
19 or local health requirements and has received approval for a given number of living units for rental or
20 lease, the construction of the same or a fewer number of condominium units on that parcel is not subject
21 to the provisions of this part, provided that no new extension of a public water supply system or a public
22 sewage disposal system is required as defined in this part.

23 (3) Subdivisions located within ~~master planning jurisdictional~~ areas that have adopted growth
24 policies pursuant to chapter 1 and first- or second-class municipalities that will be provided with municipal
25 facilities for the supply of water and disposal of sewage and solid waste are not subject to the provisions
26 of this part; except that, if the municipal facilities for water supply or sewage disposal to serve the
27 subdivision constitute either an extension of a public water supply system or a public sewage disposal
28 system, the subdivision must be reviewed in accordance with the provisions of 76-4-105, 76-4-124, and
29 76-4-127."
30

1 Section 30. Section 76-4-122, MCA, is amended to read:

2 "76-4-122. Filing or recording of noncomplying map or plat prohibited. (1) The county clerk and
3 recorder ~~shall~~ may not file or record any map or plat showing a subdivision unless it complies with the
4 provisions of this part.

5 (2) A county clerk and recorder may not accept a subdivision plat for filing until one of the
6 following conditions has been met:

7 (a) whenever reviewing authority approval is necessary, the person wishing to file the plat has
8 obtained approval of the local health officer having jurisdiction and has filed the approval with the
9 reviewing authority, and the reviewing authority has indicated by stamp or certificate that it has approved
10 the plat and plans and specifications and that the subdivision is not subject to ~~no~~ a sanitary restriction
11 ~~whenever reviewing authority approval is necessary~~; or

12 (b) whenever reviewing authority approval is not necessary, the person wishing to file the plat
13 has obtained a certificate from the governing body that the subdivision is inside ~~a master planning area~~
14 the jurisdictional area of a growth policy adopted pursuant to chapter 1 or a class 1 or class 2 municipality
15 and will be provided with municipal facilities for the supply of water and disposal of sewage and solid
16 waste."

17
18 Section 31. Section 76-4-123, MCA, is amended to read:

19 "76-4-123. Review and approval required outside master planning areas and class 1 and class
20 2 municipalities. Outside ~~master planning of jurisdictional areas that have adopted growth policies~~ adopted
21 pursuant to chapter 1 and class 1 and class 2 municipalities as provided in 76-4-124, a person may not
22 file a subdivision plat with a county clerk and recorder, make disposition of a lot within a subdivision,
23 erect any facility for the supply of water or disposal of sewage or solid waste, erect a building or shelter
24 in a subdivision ~~which~~ that requires facilities for the supply of water or disposal of sewage or solid waste,
25 or occupy a permanent building in a subdivision until the reviewing authority has indicated that the
26 subdivision is not subject to ~~no~~ a sanitary restriction."

27
28 Section 32. Section 76-4-124, MCA, is amended to read:

29 "76-4-124. Type of review and approval required within master planning areas and class 1 and
30 class 2 municipalities. (1) Within ~~master planning~~ jurisdictional areas that have adopted growth policies

1 ~~adopted~~ pursuant to chapter 1 or within a class 1 or class 2 municipality as defined in 7-1-4111, a
2 subdivision, including a development of condominiums, is not subject to sanitary restrictions when the
3 local governing body certifies that municipal facilities for the supply of water and disposal of sewage and
4 solid waste will be provided for the subdivision as provided in 76-4-127. In this case, reviewing authority
5 approval is not necessary.

6 (2) To the extent that municipal facilities for the supply of water or disposal of sewage or solid
7 waste are not to be provided for a subdivision as certified to by the governing body, the person wishing
8 to subdivide must obtain reviewing authority approval as provided in 76-4-122(2)(a)."

9
10 **Section 33.** Section 76-4-127, MCA, is amended to read:

11 **"76-4-127. Notice of certification that water and waste services will be provided by local**
12 **government.** (1) When a subdivision is reviewed under the provisions of 76-4-124, the local governing
13 body shall, within 20 days after receiving preliminary plat approval under the Montana Subdivision and
14 Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted
15 for approval and that municipal facilities for the supply of water and disposal of sewage and solid waste
16 will be provided for the subdivision.

17 (2) The notice of certification ~~shall~~ must include the following:

18 (a) the name and address of the applicant;

19 (b) a copy of the preliminary plat or a final plat ~~where~~ when a preliminary plat is not necessary;

20 (c) the number of proposed parcels in the subdivision;

21 (d) a copy of any applicable zoning ordinances in effect;

22 (e) how construction of the sewage disposal and water supply systems or extensions will be
23 financed;

24 (f) a copy of the ~~master plan~~ growth policy, when applicable, if one has not yet been submitted
25 to the reviewing authority;

26 (g) the relative location of the subdivision to the city or town; and

27 (h) certification that adequate municipal facilities for the supply of water and disposal of sewage
28 and solid waste are available or will be provided within 1 year after the notice of certification is issued."
29

30 **Section 34.** Section 76-9-104, MCA, is amended to read:

1 **"76-9-104. Zoning -- effect on shooting ranges. A planning district ~~master plan~~ growth policy,**
2 **recommendation, resolution, rule, or zoning designation may not:**

- 3 (1) prevent the operation of an existing shooting range as a nonconforming use;
4 (2) prohibit the establishment of new shooting ranges, but it may regulate the construction of
5 shooting ranges to specified zones; or
6 (3) prevent the erection or construction of safety improvements on existing shooting ranges."

7
8 **NEW SECTION. Section 35. Name change -- directions to code commissioner.** Except for
9 [section 4 of this act], wherever a reference to "master plan", "comprehensive plan", or "comprehensive
10 development plan" appears in legislation that is enacted or amended by the 1999 legislature and when
11 any of those terms refer to the plan authorized by Title 76, chapter 1, the code commissioner is directed
12 to change the term to an appropriate reference to a "growth policy".

13
14
15 **NEW SECTION. Section 36. Saving clause.** [This act] does not affect rights and duties that
16 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
17 act].

18
19 **NEW SECTION. Section 37. Transition -- applicability.** A governing body that adopts a master
20 plan pursuant to Title 76, chapter 1, before October 1, 1999, may adopt zoning regulations that are
21 consistent with the master plan pursuant to Title 76, chapter 2, part 2 or 3, until October 1, 2000. The
22 requirements for a growth policy in [section 8], amending 76-1-601, apply to the adoption of zoning
23 regulations pursuant to Title 76, chapter 2, part 2 or 3, after October 1, 2000.

24 - END -

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 12, 1999 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Bill Glaser (R)
Sen. Don Hargrove (R)
Sen. John C. Bohlinger (R)
Sen. Duane Grimes (R)
Sen. Dale Mahlum (R)
Sen. Dorothy Eck (D)
Sen. Jon Tester (D)
Sen. J.D. Lynch (D)
Sen. Chris Christiaens (D)

Members Excused: None.

Members Absent: None.

Staff Present: Mary Vandembosch, Legislative Branch
Jodi Pauley, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 95, 1/06/1999; SB 96,
1/06/1999; SB 97, 1/06/1999
Executive Action: SB 95 DP

HEARING ON SB 95

Sponsor: SENATOR LORENTS GROSFIELD, SD 13, Big Timber

{Tape : 1; Side : B; Approx. Time Counter : 3:53 p.m.}

HEARING ON SB 97

Sponsor: SENATOR BARRY "SPOOK" STANG, SD 36, St. Regis

Proponents:

Jerry Sorensen, EQC
VICKI COCCHIARELLA, SD 32, Missoula
Steve Snezek, Assoc. of Realtors
Linda Stoll, MT Assoc. of Planners
Jane Jelinski, MACo
Gavin Anderson, Department of Commerce
Jani McCall, City of Billings
Bob Horne, MT Assoc. of Planners
Janet Ellis, MT Audubon
Anne Hedges, MT Environmental Information Center
Craig Sweet, MontPIRG
Byron Roberts, MT Building Industry Assoc
Denise Roth Barber, MT Sierra Club

Opponents:

Virginia Mueller, MT Assoc. of Registered Land Surveyors

Opening Statement by Sponsor:

SENATOR BARRY "SPOOK" STANG, SD 36, St. Regis opened on SB 97.
EXHIBIT(3)

Proponents Testimony:

Jerry Sorensen, EQC, spoke in favor of SB 97. EXHIBIT(4)

VICKI COCCHIARELLA, SD 32, Missoula, said the EQC is a bipartisan committee and they have spent hundreds of hours during the interim working on this. This issue which deals with growth and cities losing population was brought to them by the citizens of the state. She said this bill has no repealers, they are a list of amended sections that are in this bill. They tried to implement a growth policy which allows small counties, growing counties, etc., to have a mechanism to deal with fair issue locally and provide incentives to encourage counties to have a growth policy. It also makes sure that these decision of what counties want their areas to look like is not a subdivision fight and when a subdivision happens it will be predictable and part of the plan.

Steve Snezek, Assoc. of Realtors, said changing the terminology from master plan to growth policy is a positive change. Master plan can have some negative connotations with it, while growth policy implies a community solution to a community question. Land owners should have an expectation about what he or she can do with their land. The planning and zoning process is the proper place to have input on those land owner decisions.

Linda Stoll, MT Assoc. of Planners, said it is not in the best interest of Montana to plan for growth one subdivision at a time. SB 97 takes the planning focus off of the subdivision review process and more in the planning of Montana communities. This bill should lead to more predictability and local decision making. By using a collaborative approach between local governments and development communities it is a positive step toward well planned growth.

Jane Jelinski, MACo, stood in support of SB 97. She provided testimony from Stillwater Co. **EXHIBIT(5)**

Gavin Anderson, Department of Commerce, rose in support of SB 97.

Jani McCall, City of Billings, submitted a letter of testimony from the City-County Planning Dept. in Billings. **EXHIBIT(6)**

Bob Horne, MT Assoc. of Planners, said a number of Montana communities are trying to manage growth subdivisions in the absence of an overall community based growth policy. This bill provides incentives for communities to engage in long range planning.

Janet Ellis, MT Audubon, submitted testimony in support of SB 97. **EXHIBIT(7)**

Anne Hedges, MT Environmental Information Center, stood in support of SB 97. **EXHIBIT(8)**

Craig Sweet, MontPIRG, supported SB 97. **EXHIBIT(9)**

Byron Roberts, MT Building Industry Assoc., said this bill would help in planning for affordable housing.

Denise Roth Barber, MT Sierra Club, said land use planning has become a high priority for their members. Planning is very important for the preservation of open space and agricultural land.

{Tape : 1; Side : B; Approx. Time Counter : 4:17 p.m.}

Opponents Testimony:

Virginia Mueller, MT Assoc. Registered Land Surveyors, said the summary for minor subdivisions is not going to be simplified and this needs to be worked on. She said if a sub-divider has complied with everything there should be no problem in getting something through. When working with the county governments if they do not like a subdivision, they will find a way to make sure it doesn't take place. She passed out testimony from Denis Applebury. **EXHIBIT(10)**

Questions from Committee Members and Responses:

SENATOR HARGROVE asked how many counties in the state now have master plans and comply with this bill. **Gavin Anderson** said no counties would comply 100 percent with this bill.

SENATOR HARGROVE asked how many counties have a plan at all. **SENATOR CHOCCHIARELLA** said Big Horn, Madison, Flathead, Missoula, and Stillwater have plans 1-4 years old. Plans that are 5-9 years old are Gallatin, Jefferson, Lewis and Clark, and Yellowstone. Plans that are 10-14 years old is Lake Co. **Mr. Anderson** said in reality probably all counties have a master plan. When HUD was involved, they all adopted comprehensive plans but most are not up to date.

SENATOR HARGROVE asked if counties would have to have a plan in accordance with this piece of legislation. **Mr. Anderson** said counties would have to meet those minimum requirements if they implement zoning or exemption for major subdivisions.

SENATOR HARGROVE asked if this bill only concerns zoning and does a master plan include the entire county. **Mr. Anderson** said yes, the master plan would have to include the entire county. It is not mandatory to adopt this piece of legislation, unless they implement zoning.

SENATOR GRIMES asked if current master plans qualify as growth plans. **SENATOR COCCHIARELLA** said yes to a point. The language on page six was put in so that if someone has a master plan in place it is the same as a growth policy.

SENATOR GRIMES asked if the reason for putting in the neighborhood plan is to exclude those county plans that don't encompass the whole county from being a growth policy plan. For instance Jefferson Co. went through a planning process for the north end of the county and will they have to go through that again. **SENATOR COCCHIARELLA** said this is why that language was

put in there and if they are in that transition then it is recognized. It doesn't just deal with the county but all plans.

SENATOR GRIMES asked if a county has gone through the planning process already and then a new sub-division comes before the planning commission, would they qualify for the minor subdivision rule. **SENATOR COCCHIARELLA** said if the planner had placed that as one of the incentives and public interest had been met in the planning process, a minor would not have to have the review. She said the purpose of this bill is to get rid of fights over subdivisions.

{Tape : 1; Side : B; Approx. Time Counter : 4:29 p.m.}

SENATOR MAHLUM said they have a developer that has a small development in Ravalli Co. and a small development in Missoula Co.. Does the developer have to worry about the planning commission in both Missoula and Ravalli Co., or can he do it all at once. **SENATOR COCCHIARELLA** said if the plan is adopted and in place it will provide predictability.

SENATOR MAHLUM asked if there would be some problems with local communities saying that they don't like what the state is making them do. **SENATOR COCCHIARELLA** said then the incentives won't be there.

SENATOR MILLER asked what about the funding. **SENATOR COCCHIARELLA** said this bill will stand alone without the incentives of more funding.

SENATOR MILLER asked if this bill is a mandate on local governments. **SENATOR COCCHIARELLA** said this is not a mandatory bill at all. If counties don't do planning, then they don't receive the incentives. Counties are crying, saying they would like to make planning easier and have a reason to do planning.

SENATOR GRIMES said there are currently counties who have regulations on review and approvals, but because they don't have a growth policy then those counties would have to go back and establish growth policies before having the expedited review. **SENATOR COCCHIARELLA** said yes.

SENATOR GRIMES asked if this legislation would grandfather in subdivisions that are currently in process. **SENATOR COCCHIARELLA** said yes this was one of the proposed amendments for the committee to adopt.

CHAIRMAN SPRAGUE asked what was **Virginia Mueller's** objection to this bill. **Virginia Mueller** said if a county does not have a

growth plan there is no longer a minor subdivision review. The counties cannot afford this and are being punished because they don't get this money.

CHAIRMAN SPRAGUE asked what does she recommend. **Virginia Mueller** said that if county can't afford a growth plan or can't participate then they shouldn't be deprived of what they have now.

CHAIRMAN SPRAGUE asked how would the sponsor react to this.

SENATOR COCCHIARELLA said this bill takes away nothing that is in place right now. It is an enhancement to present law for counties and cities to adopt a plan.

Closing by Sponsor:

SENATOR STANG said this committee went around the state to get input on these proposals. This committee was made up of legislators and people of varying interests to make sure this bill was a good piece of legislation. It answers the land surveyors questions and makes it an easier process because it is not required by local governments and takes out the problems that arise in subdivisions. The funding is not the most important part of this bill and it does not have to come from the state. There is funding available from private intuitions to donate to planning boards, etc. He said there is a saving clause in this to make sure nothing in existence will be shut out of the process. He passed out amendments. **EXHIBIT(11)**

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on March 8, 1999 at 3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Scott J. Orr (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 96, SB 97, SB 235, 3/3/1999
Executive Action: HB 158 Move to Subcommittee

HEARING ON SENATE BILL 97

Sponsor: Sen. Spook Stang, SD 36, presented SB 97. He distributed the Summary of Findings and Recommendations Report to the 56th Legislature from the Legislative Environmental Policy Office, **EXHIBIT(1)**, a Table of Contents for the bill addressing each section, **EXHIBIT(2)**, and Changes from Current Law-Third Reading Copy, **EXHIBIT(3)**. He said the bill addressed ways to deal with growth by providing predictability. Managing growth is a priority according to a poll. Copies of newspaper clippings were distributed. **EXHIBIT(4)** This bill would also provide predictability to developers by requiring communities to adopt growth policies. It could encourage growth in certain areas. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 10.1}**

Proponents: Sen. Vicki Cochiarella, SD 32, spoke in favor of the bill. She described the two year study process where she served as co-chair. She referred to the Planning for Growth booklet developed by the EQC and encouraged the committee members to look at it. **EXHIBIT(5)**

Jerry Sorenson, a public member of the Environmental Quality Council and co-chair of the subcommittee that worked on the growth study. There is a need to debate about planning for growth overall rather than addressing one subdivision at a time. He pointed out the bill was coupled with a funding bill which would provide some funds to help counties work on growth policies. **{Tape : 1; Side : A; Approx. Time Counter : 13.1 - 16.1}**

Steve Snezik, representing the Montana Association of Realtors, spoke in support of SB 97 and the changes it makes to the subdivision and planning act. Changing the terminology from "Master Plan" to "Growth Policy" is a good change. Master plans sometimes carry negative connotations and growth policy implies a community solution. He pointed out that landowners need to know what they can do with their land. **{Tape : 1; Side : A; Approx. Time Counter : 17.6 - 18.2}**

Dennis Lay, a Montana Registered Land Surveyor from Helena, described how the bill had some problems in the minor subdivision review but had been corrected and he was now in support of the bill. **{Tape : 1; Side : A; Approx. Time Counter : 18.2 - 19.1}**

Linda Stahl, representing the Montana Association of Planners, spoke in support of the bill. **{Tape : 1; Side : A; Approx. Time Counter : 19.1 - 19.4}**

Mike Kadas, Mayor of Missoula, presented written testimony and an amendment that would address specific areas rather than an entire county. **EXHIBIT(6)** He said land and property rights had the potential for a lot of antagonism. This would allow for the development of neighborhood plans. As growth is anticipated the neighborhoods could come to the local government for dialogue and would have an incentive to do planning. **{Tape : 1; Side : A; Approx. Time Counter : 19.4 - 30}**

Byron Roberts, Montana Building Industry Association, spoke in support of the bill. He felt good planning was essential in the development of affordable housing. Development must be guided within contiguous urban areas, maintain open space while allowing for location of choice. **{Tape : 1; Side : A; Approx. Time Counter : 30 - 30.7}**

Anne Hedges, representing Montana Environmental Information Center, supported the bill. She presented written testimony. **EXHIBIT(7)**

Sen. Lorents Grosfield spoke in support of the bill. He explained when he was on the EQC the focus was on planning rather than subdivisions. Community planning will make subdivisions easier and more meaningful. **{Tape : 1; Side : A; Approx. Time Counter : 34.8 - 36.6}**

Gavin Anderson, Program Manager for the Technical Assistance Program at the Department of Commerce, spoke as a proponent. **{Tape : 1; Side : A; Approx. Time Counter : 36.6}**

Janet Ellis, representing Montana Audubon, presented written testimony in support of the bill. **EXHIBIT(8)**

Denise Roth Barber, representing the Montana Sierra Club, spoke in support of the bill. She said land use planning had become a high priority for their members. This is crucial for open space and agricultural land preservation which are both under increasing threat from uncontrolled growth. **{Tape : 1; Side : A; Approx. Time Counter : 37.5}**

Opponents: None.

Informational Witness: Rep. Kim Gillan discussed her views. She was a member of the growth subcommittee in EQC that developed this bill. She pointed out the importance of recognizing that a one size fits all solution may not be appropriate for the state in the issue of growth planning. She was concerned that what is appropriate for the western part of the state where there has been rapid population growth will not be appropriate or relevant

to what happens in the eastern part of the state where there have been population declines. **{Tape : 1; Side : A; Approx. Time Counter : 37.5 - 41.8}**

Questions from Committee Members and Responses: Rep. Erickson asked if this could be fixed for eastern Montana. Rep. Gillan said she did not like changing master planning to growth planning which she did not feel were the same thing. **{Tape : 1; Side : A; Approx. Time Counter : 41.8 - 43}**

Rep. Bitney asked for an explanation of the planning process and individual property rights where a property owner may become restricted to what they can do with their land. Steve Snezik replied that was a concern. The planning process should not be a regulatory process. The plan should not be a regulatory document. The zone that implements the plan should be the regulations that guide the land use. The process comes about through the community sitting down and working out some of the questions. **{Tape : 1; Side : A; Approx. Time Counter : 43 - 47.1}**

Rep. Ewer asked about the timing. Sen. Stang replied the date would be after the next Legislature meets. If the cities find this is a problem they will be able to come to the next Legislature to ask for an extension of time. This only applies to the cities that already have a plan. It is optional to those who have no plan. **{Tape : 1; Side : A; Approx. Time Counter : 43 - 48.5}**

Rep. Tuss said there was some concerns about the timing. She asked if the 3-5 year time was amenable. Mayor Kadas replied the timing was not the concern but the area was. He pointed out it made more sense to do a piece at a time since parts of the community recognize that they want to see some changes. If you want to do a thorough job at the county level, ten years is better. The county plan is just an umbrella. The real detailed plans happens in the neighborhood and community plans. He said a shorter period of time may keep involvement out of a full blown plan if they are forced to do a county wide plan. He recommended an area by area plan to let the people drive the process. He said ten years may be too long, maybe five would be better. A requirement to do the plan county wide would be asking for trouble. **{Tape : 1; Side : A; Approx. Time Counter : 48.5 - 50.1}**

Rep. Story asked about those who had a master plan now would they need to redo them to meet the new criteria. Sen. Stang replied they would not plus the extension of time to 2001 there would be time to implement a plan. Jeanne Marie Sowgney, EQC growth planning subcommittee, referred to page 29 regarding language that said any Master Plan adopted before October 1, 1999,

jurisdictions would have another two years after that to implement any regulations they want under the existing master plan. Those don't change because they adopt a growth policy.

{Tape : 1; Side : A; Approx. Time Counter : 50.1 - 53.3}

Rep. Story asked about concerns regarding neighborhood plans allowing exclusionary zoning and could this already happen under citizen initiated zoning. Mr. Snezik replied it could. The benefit with the bill would be that any of the neighborhood plans that were initiated in a local area would then have to comply with the Master Plan or Growth Policy. There would be a check and balance on what was done at the neighborhood level. **{Tape : 1; Side : A; Approx. Time Counter : 54.1 - 55.2}**

Rep. Ewer asked if the Kadas amendments considered incrementalism. Sen. Stang commented the problem is the neighborhood plans might be in conflict with the master plans. The master plan might want growth in this area but the neighborhood plan would exclude that plan and actually force the growth into an area where the growth policy was trying to move it. **{Tape : 1; Side : A; Approx. Time Counter : 54.1 - 59}**

Rep. Ewer asked why the neighborhood growth policy could not be addressed. Jerry Sorenson replied this was thoroughly addressed in the growth policy subcommittee meetings. You might be able to get some planning in some neighborhoods on the ground easier if you don't have to put them in context of what the overall growth policy of the county is. However, that may not take into account the growth policy for the larger community and the larger issues that need to be addressed in the process. The way the law reads now is that master plans have to cover the entire jurisdiction. It is critical that any planning has to tie back to the larger jurisdiction so that you deal with your county wide or community wide goals - transportation, utilities, etc. Otherwise you run the risk of a lot of neighborhoods getting together and doing their planning and their zoning for what they want in their neighborhoods and pushing all the unwanted kinds of development into areas of the county that haven't got their act together to do a neighborhood plan. There is not this community benefit approach to planning which should be comprehensive. **{Tape : 1; Side : A; Approx. Time Counter : 59 - 61.6}**

Rep. Hurdle said she was concerned about sprawl and the need to coordinate with goals and objectives in a growth policy. Mayor Kadas agreed coordination was important and did happen because there was overriding zoning and subdivision regulation and ordinances and elected officials. There isn't a neighborhood plan that doesn't have to be approved by the whole council or whole commission. They look at it at the perspective of the

context of the larger county. However, it is difficult to do in a practical manner. You tell one area they have to live with the same rules as another, which may have nothing in common. **{Tape : 1; Side : A; Approx. Time Counter : 61.6 - 64.3}**

Mayor Kadas pointed out if there was no plan or an outdated plan it did not mean that growth wasn't going to happen. You are trying to avoid unplanned growth. That is what brings the neighborhoods to the table, to the commissioners, and gets them involved in the process. There is strong, local property rights on the parcels that exist and people are going to subdivide those. There is going to be growth in either case, the question is do you want a plan or not. **{Tape : 1; Side : B; Approx. Time Counter : 1 - 2.6}**

Rep. Erickson asked about exclusionary plans and neighborhood zoning as they did not seem connected. He pointed out the Kadas amendments defined neighborhoods of 5,000 acres and 1,000 people. Snezik clarified that neighborhoods were not always exclusionary. He was not sure defining neighborhoods in this manner was right. The umbrella of a greater growth policy by which a neighborhood plan must comply is the one check and balance that is absolutely crucial in the whole neighborhood planning process. Without goals and objectives on the county wide level it was not known how neighborhood plans are going to be developed and would be beneficial to the community in the communities goals and objectives as a whole. **{Tape : 1; Side : B; Approx. Time Counter : 2.6 - 5}**

Rep. Story asked if the growth policy would allow for differences in areas. Sorenson replied he had done more neighborhood planning when he was a public planner in Lake County. He saw neighborhood planning under the context of an umbrella comprehensive plan. He pointed out Missoula County could fix their master plan after 2001 or they could break their jurisdiction into not only a county jurisdiction but a city-county jurisdiction and pull in those other areas. The overall plan, followed by the neighborhood plans is the best methodology to do responsible planning in Montana. He felt the bill laid out the framework to accomplish that. **{Tape : 1; Side : B; Approx. Time Counter : 7.2 - 11.1}**

Rep. Story pointed the problem even in the subdivision law was it was geared to those places that are experiencing a lot of growth. To do anything any place in Montana you still have to go through the process whether it be a 20 acre tract out in the NE corner of Daniels County. To allow a county to do any zoning you have to go through a whole planning process when it may be only one small area they need to work with. Sorenson pointed out the bill was

not mandatory. If there were specific areas they were concerned about, the provisions in the subdivision law may be adequate to deal with it. Or they could build a plan for that county that is very general and then could be followed up with a more site specific or neighborhood plan. This sets up the framework and gets the neighbors to deal with local issues at the local level but with some consideration for the goals of the county. This bill is optional and there may be a funding source for counties to do this if they want to exercise that option which will come with some technical assistance. It would be a benefit to a lot of eastern Montana counties to do some planning and get some funding help. If they are declining in growth, that issue should be addressed as well. **{Tape : 1; Side : B; Approx. Time Counter : 7.2 - 14.3}**

Closing by Sponsor: Sen. Stang closed. He stressed that the bill was not mandatory but optional. A growth policy can help plan ahead. The current process does not work but is reactionary. **{Tape : 1; Side : B; Approx. Time Counter : 14.3 - 24}**

HEARING ON SENATE BILL 96

Sponsor: Sen. Spook Stang, SD 36, presented SB 96. He explained the bill dealt with zoning. The bill could be called the in-fill bill. It changes some of the requirements to zoning protests to make it easier for development to be inside of the city or inside of areas rather than provide for the sprawl that exists today. The EQC found that the development of areas where services already exist is usually more cost effective than random development and concluded the development in and around urban areas should be encouraged. They also concluded there are a number of disincentives to develop in and around urban areas including some outdated zoning regulations. Traditional zoning regulations can sometimes discourage cluster development or other innovative designs because they limit density or separate different types of land uses. He discussed amendments put on by the Senate. **EXHIBIT(9) {Tape : 1; Side : B; Approx. Time Counter : 23 - 28.3}**

Proponents: Jean Marie Songney, representing the Growth Management Subcommittee from EQC, said the subcommittee tried to address those situations where one or two people could protest a zoning change and it would take a huge, super majority to override that. It took 75% prior to this change to override what one person may bring up as a protest. This will increase the number of people that would have to protest a zoning change and lowers the threshold over the number of people on the zoning body

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE SB 96 AND SB 97

Call to Order: By **SENATOR DON HARGROVE**, on April 12, 1999 at
8:35 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove
Sen. Lorents Grosfield
Sen. Barry Stang
Rep. Rod Bitney
Rep. Mark Noennig
Rep. Ron Erickson (SB 96)
Rep. Carolyn Squires (SB 97)

Members Excused: None.

Members Absent: None.

Staff Present: Phoebe Olson, Secretary
Mary Vandebosch ,Legislative Services Division

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Conference Committee on SB 96 and SB 97

Kirwin Jensen, said he felt that 20% was the fairest number.

SENATOR STANG, said it appeared that 25% would be better than 20% because of the right-of-way. He said the city of Missoula would rather have 40%. He thought that 25% was a good compromise.

Vote: Motion carried unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 905; Comments :
Committee on SB 97}

SB 97

SENATOR STANG, explained he wanted to strip the House amendments. He said the reason he did not like this was because in current law you did not have to have a vote on a master plan, and the House put a mandatory vote in. He said this bill was trying to get people involved in the front of the process.

SENATOR HARGROVE, asked if any of the House members were involved in the amendment.

REPRESENTATIVE NOENNIG, said it was put on the bill on the House floor.

SENATOR HARGROVE, said it looked like there was the possibility they did not understand what the amendment did.

REPRESENTATIVE NOENNIG, said that they did intend to make the vote mandatory. He explained the arguments that were made in the House, and that they were concerned mostly with property rights. He thought there was a provision that allowed a referendum under certain circumstances.

Ann Hedges, Environmental Information Center, said the referendum started on page 11, line 30, and went on to the next page.

REPRESENTATIVE NOENNIG, added that there was some discussion that you shouldn't vote for the bill even with the amendment, because it would be stripped off in the Senate.

SENATOR HARGROVE, said they were forcing a decision, and they might be putting themselves more at risk by insisting there be a vote.

REPRESENTATIVE SQUIRES, said she wanted to maintain the amendments because of problems in her area and she felt it was the best way to serve her constituency.

SENATOR HARGROVE, said that was what we were all here for. He wondered what would happen in the House if the amendments were rejected.

SENATOR STANG, said the people who worked hard to put the bill together and who had reached a consensus with the Senate amendments would rather see the bill die than have it pass with the House amendments. He thought that would be very unfortunate.

REPRESENTATIVE NOENNIG, said the amendment was really the bill and in his view it should be stripped and submitted to the House again to see if it could live.

SENATOR GROSFIELD, said he agreed with **SENATOR STANG**.

REPRESENTATIVE SQUIRES, said she totally respected the opinions that were given, but did make some remarks in defense of the people who were coming in at the end of the process.

Motion: **SEN. STANG** moved **THE HOUSE AMENDMENTS BE STRIPPED OFF THE BILL**.

SENATOR HARGROVE, said the public interest was still preserved in his opinion. He thought that they had to start giving discretion at the local level. He took the position that some of the people did not totally understand the issue.

REPRESENTATIVE NOENNIG, said he was going to support the motion. He hoped he didn't mis-state the intentions of the House, or to be overly critical.

SENATOR GROSFIELD, commented that there was criteria that required local government to look differently about how the develop plans on page 10. He thought that would result in a lot more public involvement.

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Vote: Motion carried 5-1. Representative Squires voted no.